

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 DESIREE I. KELLOGG
Deputy Attorney General
4 State Bar No. 126461
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2996
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
10 **FOR THE BUREAU OF SECURITY AND INVESTIGATIVE SERVICES**
STATE OF CALIFORNIA

11
12 In the Matter of the Accusation Against:

Case No. A1 2011 502

13 **STEPHEN M. COHEN**
14 **DBA STEPHEN M. COHEN**
INVESTIGATIVE AGENCY
15 **P.O. Box 531938**
San Diego, CA 92153

A C C U S A T I O N

16 **Private Investigator License No. 9725**

17 **Respondent.**

18
19
20 **Complainant alleges:**

21 **PARTIES**

22 1. Jeffrey Mason (Complainant) brings this Accusation solely in his official capacity as
23 the Chief of the Bureau of Security and Investigative Services, Department of Consumer Affairs.

24 2. On or about May 4, 1983, the Bureau of Security and Investigative Services issued
25 Private Investigator License Number 9725 to Stephen M. Cohen, dba Stephen M. Cohen
26 Investigative Agency (Respondent). The Private Investigator License was in full force and effect
27 at all times relevant to the charges brought herein and will expire on January 31, 2014, unless
28 renewed.

JURISDICTION

3. This Accusation is brought before the Director of Consumer Affairs (Director) for the Bureau of Security and Investigative Services, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 118(b), of the Code provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 7564.1 of the Code provides in pertinent part:

(a) Notwithstanding Sections 7561.1 and 7561.4 or any other provision of law, the director may revoke, suspend, or deny at any time a license under this chapter on any of the grounds for disciplinary action provided in this chapter. The proceedings under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director shall have all of the powers granted therein.

...

STATUTORY PROVISIONS

6. Section 480 of the Code states:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

...

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

...

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who

holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

9. Section 7538 of the Code states, in pertinent part:

After a hearing the director may deny a license unless the applicant makes a showing satisfactory to the director that the applicant, if an individual, has not, or if the applicant is a person other than an individual, that its manager and each of its officers have not:

(c) Committed any act or crime constituting grounds for denial of licensure under Section 480, including illegally using, carrying, or possessing a deadly weapon.

10. Section 7561.1 of the Code states, in pertinent part:

The director may deny, suspend, or revoke a license issued under this chapter if he or she determines that the licensee or his or her manager, if an individual, or if the licensee is a person other than an individual, that any of its officers, directors, partners, or its manager, has:

(d) Been convicted of any act or crime constituting grounds for denial of licensure under Section 480, including illegally using, carrying, or possessing a deadly weapon.

(l) Committed any act which is a ground for denial of an application for a license under this chapter.

11. Section 7562 of the Code provides, in pertinent part, that the record of conviction, or a certified copy thereof, shall be conclusive evidence of the conviction as that term is used in this article, Section 7538, or Section 480. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this article, Section 7538, or Section 480.

REGULATORY PROVISIONS

12. California Code of Regulations, Title 16, section 602 states:

For purposes of denial, suspension, or revocation of a license of pursuant to Division 1.5 (commencing with Section 475) of the Code, a crime or act shall be considered to be substantially related to the qualifications, functions, or duties of a licensee if to a substantial degree it evidences present or potential unfitness to perform the functions authorized by the license in a manner consistent with the public health, safety, and welfare. Such crimes or acts shall include, but not be limited to, those delineated in Section 7561.1 or 7561.4 of the Business and Professions Code.

13. California Code of Regulations, Title 16, section 602.1 states:

When considering the denial, suspension, revocation or reinstatement of a license for which application has been made under Chapter 8, 8.5, 11, 11.3, 11.4, 11.5 or 11.6 of the Code, the Director, in evaluating the rehabilitation of the applicant, licensee or petitioner and his or her present eligibility for a license will consider the following criteria:

(1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.

(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Code.

(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).

(4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

(5) Evidence, if any, of rehabilitation submitted by the applicant.

(6) If applicable, evidence of proceedings pursuant to Section 1203.4 of the Penal Code.

COST RECOVERY

14. Section 125.3 of the Code provides, in pertinent part, that the Director may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(May 26, 1972 Criminal Conviction for Petty Theft)

15. Respondent is subject to disciplinary action under Code sections 490 and 7561.1(d) in that Respondent was convicted of a crime that is substantially related to the

1 qualifications, functions or duties of a private investigator. The circumstances are that on or
2 about May 26, 1972, in *The People of the State of California v. Stephen Michael Cohen*, Orange
3 County Municipal Court of the Central Judicial District, Respondent was convicted of petty theft,
4 a misdemeanor and sentenced to county jail.

5 SECOND CAUSE FOR DISCIPLINE

6 (April 8, 1975 Criminal Convictions for Writing Checks with Insufficient Funds and Grand
7 Theft Between July 13 and September 27, 1973)

8 16. Respondent is subject to disciplinary action under Code sections 490 and 7561.1(d) in
9 that Respondent was convicted of crimes that are substantially related to the qualifications,
10 functions or duties of a private investigator. The circumstances are that on or about September
11 16, 1974, Respondent pled guilty and on or about April 8, 1975, sentence was pronounced in *The*
12 *People of the State of California v. Stephen Michael Cohen*, Orange County Municipal Court of
13 the Central Judicial District, case number 32099. Respondent was found guilty of violating Penal
14 Code section 476(a), intentionally writing checks with nonsufficient funds and Penal Code
15 section 484-487.1, grand theft, felonies. He was sentenced to one year in county jail and five
16 years probation.

17 THIRD CAUSE FOR DISCIPLINE

18 (July 13, 1977 Criminal Convictions for Grand Theft, False Personation and Forgery
19 Between August 16 and October 4, 1976)

20 17. Respondent is subject to disciplinary action under Code sections 490 and 7561.1(d) in
21 that Respondent was convicted of crimes that are substantially related to the qualifications,
22 functions or duties of a private investigator. The circumstances are that on or about July 13,
23 1977, in *The People of the State of California v. Stephen Michael Cohen*, Orange County
24 Superior Court Case no. C-37374, Respondent was convicted on his plea of guilty for violating
25 Penal Code section 484-487.1, grand theft, Penal Code 529.3, false personation and Penal Code
26 section 470, forgery, felonies. Respondent was sentenced to three years probation and to pay all
27 applicable fees, fines and restitution.
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

FOURTH CAUSE FOR DISCIPLINE

(March 27, 1978 Criminal Conviction for Writing Checks with Insufficient Funds on or
about October 20, 1977)

18. Respondent is subject to disciplinary action under Code sections 490 and 7561.1(d) in that Respondent was convicted of a crime that is substantially related to the qualifications, functions or duties of a private investigator. The circumstances are that on March 27, 1978, in *The People of the State of California v. Stephen Michael Cohen*, Orange County Municipal Court Case no. C-39668, Respondent was convicted on his plea of guilty for violating Penal Code section 476a, intentionally writing a check with insufficient funds, a felony.

FIFTH CAUSE FOR DISCIPLINE

(January 28, 1992 Criminal Convictions for Bankruptcy Fraud, False Statements and
Obstructing Justice in or about December 1987-1989)

19. Respondent is subject to disciplinary action under Code sections 490 and 7561.1(d) in that Respondent was convicted of crimes that are substantially related to the qualifications, functions, or duties of a private investigator. The circumstances are as follows:

a. On or about January 28, 1992, in a criminal proceeding entitled *United States of America v. Stephen Michael Cohen, et al.*, in the United States District Court for the Southern District of California, case no. 90-1052-K, Respondent was found guilty by a jury of violating Title 18, U.S.C., sections 152 and 2, bankruptcy fraud and aiding and abetting; Title 18, U.S.C., section 1001, false claims and statements; and Title 18, U.S.C., section 1503, obstructing justice (counts 2-9 of the Indictment).

b. As a result of the convictions, on or about January 28, 1992, Respondent was sentenced to 46 months in prison and three years probation and ordered to pay all applicable assessments. Thereafter, on June 7, 1993, the United States Court of Appeals reversed the conviction on count six and remanded the case for resentencing on the remaining counts. On August 2, 1993, count six of the Indictment was dismissed and Respondent was ordered to pay a special assessment and sentenced to 46 months on each of counts 2-5 and 7-9 and probation for a term of three years on each count concurrently.

1 c. The facts that led to the convictions are that in or about December 1987 through
2 1989, Respondent posed as an attorney and claimed to represent his co-defendant in Case Number
3 85-04521, United States Bankruptcy Court, San Diego, California. He also knowingly and
4 fraudulently transferred and concealed cash, bank accounts and interests in real property
5 belonging to his co-defendant, the debtor in that proceeding, from the creditors. Respondent
6 represented to the United States Bankruptcy Judge orally and in filed pleadings that he was an
7 attorney licensed to practice law in the State of California and in the United States Bankruptcy
8 Court and made false representations to the United States Bankruptcy Judge as to purported loan
9 proceeds from a company to his co-defendant.

10 SIXTH CAUSE FOR DISCIPLINE

11 (Fraudulent and Dishonest Acts)

12 20. Respondent is subject to disciplinary action under Code sections 7561.1(l), in
13 conjunction with 7538(c) and 480(a)(2), in that Respondent engaged in fraudulent and dishonest
14 acts that would have constituted grounds for denial of licensure as is more fully set forth in
15 paragraphs 15-19, and incorporated herein by reference.

16 DISCIPLINARY CONSIDERATIONS

17 21. Pursuant to California Code of Regulations, Title 16, section 602.1, Complainant
18 alleges that on or about February 12, 2001, in *Gary Kreman v. Stephen Michael Cohen, et al.*,
19 United States District Court for the Northern District of California, Case number C 98-20718, the
20 Court held Respondent in civil contempt for his repeated violations of the Court's orders on four
21 separate occasions finding that:

22 Defendants have simply ignored this Court's orders. This Court has now on
23 four separate occasions ordered Defendants to sign waivers for the release of tax
24 returns, bank account records, and FOIA waivers. All four times, Defendants have
25 turned a deaf ear. This Court cannot countenance such blatant disregard of its orders.

26 The Court also issued an Order to Show Cause on February 28, 2001 and an Order Holding
27 Defendants in Civil Contempt on March 2, 2001, noting that Respondent has "made no attempt to
28 remedy [his] contemptuous conduct." The March 2, 2001 Order consequently ordered that a

1 "warrant issue directing the United States Marshal's Service to arrest Respondent and hold him in
2 custody."

3 22. On or about April 3, 2001, in *Gary Kremen v. Stephen Michael Cohen et al.*, the
4 Court entered judgment against Respondent in the amount of \$40,000,000, plus punitive damages
5 in the sum of \$25,000,000 and imposed a constructive trust on Respondent's assets for unlawfully
6 taking control of the domain name, Sex.com, and profiting from its use by turning that domain
7 name into a lucrative online porn empire. The Court also issued another order holding
8 Respondent in contempt and issued an arrest warrant on September 10, 2001. Respondent
9 refused to comply with the judgment.

10 23. The Court of Appeals for the Ninth Circuit in *Kremen v. Cohen et al.*, commented on
11 Respondent's tactics in evading enforcement of the judgment noting:

12 [Plaintiff], unfortunately, has not had much luck collecting his judgment. The
13 district court froze [Respondent's] assets, but [Respondent] ignored the order and
14 wired large sums of money to offshore accounts. His real estate property, under the
15 protection of a federal receiver, was stripped of all its fixtures—even cabinet doors
16 and toilets—in violation of another order. The court commanded [Respondent] to
17 appear and show cause why he shouldn't be held in contempt, but he ignored that
18 order, too. The district judge finally took off the gloves—he declared [Respondent] a
19 fugitive from justice, signed an arrest warrant and sent the U.S. Marshals after him.

20 The Ninth Circuit determined that Respondent had "egregious[ly] abuse[d] the litigation process."
21 On or about October 27, 2005, Respondent was arrested by the United States Marshal and spent
22 approximately eighteen months incarcerated in the Santa Clara County Main Jail for his failure to
23 obey the Court's orders. To date, Respondent has still not satisfied the judgment. When
24 contacted by the investigator in connection with this matter, Respondent stated that "I have no
25 intention of satisfying that judgment and I will not pay."

26 PRAYER

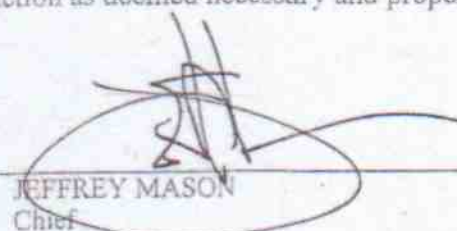
27 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
28 and that following the hearing, the Director of Consumer Affairs issue a decision:

1. Revoking or suspending Private Investigator License Number 9725, issued to Stephen
M. Cohen, dba Stephen M. Cohen Investigative Agency;

1 2. Ordering Stephen M. Cohen, dba Stephen M. Cohen Investigative Agency to pay the
2 Bureau of Security and Investigative Services the reasonable costs of the investigation and
3 enforcement of this case, pursuant to Business and Professions Code section 125.3;

4 3. Taking such other and further action as deemed necessary and proper.

5
6 DATED: May 1, 2012


JEFFREY MASON

Chief

Bureau of Security and Investigative Services

Department of Consumer Affairs

State of California

Complainant

10
11 SD2012702929/70553048.doc
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 DESIREE I. KELLOGG
Deputy Attorney General
4 State Bar No. 126461
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2996
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
10 **FOR THE BUREAU OF SECURITY AND INVESTIGATIVE SERVICES**
STATE OF CALIFORNIA

11
12 In the Matter of the Accusation Against:

Case No. A1 2011 502

13 **COHEN STEPHEN M INVESTIGATIVE**
14 **AGENCY; STEPHEN MICHAEL COHEN,**
BUSINESS OWNER

STATEMENT TO RESPONDENT

[Gov. Code §§ 11504, 11505(b)]

15 Respondent.

16
17 TO RESPONDENT:

18 Enclosed is a copy of the Accusation that has been filed with the Director of Consumer
19 Affairs, Bureau of Security and Investigative Services (Bureau), and which is hereby served on
20 you.

21 Unless a written request for a hearing signed by you or on your behalf is delivered or
22 mailed to the Bureau, represented by Deputy Attorney General Desiree I. Kellogg, within fifteen
23 (15) days after a copy of the Accusation was personally served on you or mailed to you, you will
24 be deemed to have waived your right to a hearing in this matter and the Bureau may proceed upon
25 the Accusation without a hearing and may take action thereon as provided by law.

26 ///

27 ///

1 The request for hearing may be made by delivering or mailing one of the enclosed forms
2 entitled "Notice of Defense," or by delivering or mailing a Notice of Defense as provided in
3 section 11506 of the Government Code, to

4 **Desiree I. Kellogg**
5 **Deputy Attorney General**
6 **110 West "A" Street, Suite 1100**
7 **San Diego, California 92101**

8 **P.O. Box 85266**
9 **San Diego, California 92186-5266**

10 You may, but need not, be represented by counsel at any or all stages of these proceedings.

11 The enclosed Notice of Defense, if signed and filed with the Bureau, shall be deemed a
12 specific denial of all parts of the Accusation, but you will not be permitted to raise any objection
13 to the form of the Accusation unless you file a further Notice of Defense as provided in section
14 11506 of the Government Code within fifteen (15) days after service of the Accusation on you.

15 If you file any Notice of Defense within the time permitted, a hearing will be held on the
16 charges made in the Accusation.

17 The hearing may be postponed for good cause. If you have good cause, you are obliged to
18 notify the Office of Administrative Hearings, 1350 Front Street, Suite 3005, San Diego, CA
19 92101, within ten (10) working days after you discover the good cause. Failure to notify the
20 Office of Administrative Hearings within ten (10) days will deprive you of a postponement.

21 Copies of sections 11507.5, 11507.6, and 11507.7 of the Government Code are enclosed.

22 If you desire the names and addresses of witnesses or an opportunity to inspect and copy
23 the items mentioned in section 11507.6 of the Government Code in the possession, custody or
24 control of the Bureau you may send a Request for Discovery to the above designated Deputy
25 Attorney General.

26 **NOTICE REGARDING STIPULATED SETTLEMENTS**

27 It may be possible to avoid the time, expense and uncertainties involved in an
28 administrative hearing by disposing of this matter through a stipulated settlement. A stipulated
settlement is a binding written agreement between you and the government regarding the matters

1 charged and the discipline to be imposed. Such a stipulation would have to be approved by the
2 Director of Consumer Affairs, Bureau of Security and Investigative Services but, once approved,
3 it would be incorporated into a final order.

4 Any stipulation must be consistent with the Bureau's established disciplinary guidelines;
5 however, all matters in mitigation or aggravation will be considered. A copy of the Bureau's
6 Disciplinary Guidelines will be provided to you on your written request to the state agency
7 bringing this action.

8 If you are interested in pursuing this alternative to a formal administrative hearing, or if you
9 have any questions, you or your attorney should contact Deputy Attorney General Desiree I.
10 Kellogg at the earliest opportunity.

11 Dated: May 3, 2012

KAMALA D. HARRIS
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General

DESIREE I. KELLOGG
Deputy Attorney General
Attorneys for Complainant

12
13
14
15
16
17
18
19 SD2012702929
70562554.doc
20
21
22
23
24
25
26
27
28

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 DESIREE I. KELLOGG
Deputy Attorney General
4 State Bar No. 126461
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2996
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
10 **FOR THE BUREAU OF SECURITY AND INVESTIGATIVE SERVICES**
STATE OF CALIFORNIA

11
12 In the Matter of the Accusation Against:

Case No. A1 2011 502

13 COHEN STEPHEN M INVESTIGATIVE
14 AGENCY; STEPHEN MICHAEL COHEN,
BUSINESS OWNER

REQUEST FOR DISCOVERY

15 Respondent.

16
17 **TO RESPONDENT:**

18 Under section 11507.6 of the Government Code of the State of California, parties to an
19 administrative hearing, including the Complainant, are entitled to certain information concerning
20 the opposing party's case. A copy of the provisions of section 11507.6 of the Government Code
21 concerning such rights is included among the papers served.

22 PURSUANT TO SECTION 11507.6 OF THE GOVERNMENT CODE, YOU ARE
23 HEREBY REQUESTED TO:

- 24 1. Provide the names and addresses of witnesses to the extent known to the Respondent,
25 including, but not limited to, those intended to be called to testify at the hearing, and
26 2. Provide an opportunity for the Complainant to inspect and make a copy of any of the
27 following in the possession or custody or under control of the Respondent:
28

1 a. A statement of a person, other than the Respondent, named in the
2 initial administrative pleading, or in any additional pleading, when it is claimed that
3 the act or omission of the Respondent as to this person is the basis for the
4 administrative proceeding;

5 b. A statement pertaining to the subject matter of the proceeding made
6 by any party to another party or persons;

7 c. Statements of witnesses then proposed to be called by the
8 Respondent and of other persons having personal knowledge of the acts, omissions or
9 events which are the basis for the proceeding, not included in (a) or (b) above;

10 d. All writings, including but not limited to reports of mental, physical
11 and blood examinations and things which the Respondent now proposes to offer in
12 evidence;

13 e. Any other writing or thing which is relevant and which would be
14 admissible in evidence, including but not limited to, any patient or hospital records
15 pertaining to the persons named in the pleading;

16 f. Investigative reports made by or on behalf of the Respondent
17 pertaining to the subject matter of the proceeding, to the extent that these reports (1)
18 contain the names and addresses of witnesses or of persons having personal
19 knowledge of the acts, omissions or events which are the basis for the proceeding, or
20 (2) reflect matters perceived by the investigator in the course of his or her
21 investigation, or (3) contain or include by attachment any statement or writing
22 described in (a) to (e), inclusive, or summary thereof.

23 For the purpose of this Request for Discovery, "statements" include written statements by
24 the person, signed, or otherwise authenticated by him or her, stenographic, mechanical, electrical
25 or other recordings, or transcripts thereof, of oral statements by the person, and written reports or
26 summaries of these oral statements.

27 YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for Discovery
28 should be deemed to authorize the inspection or copying of any writing or thing which is

1 privileged from disclosure by law or otherwise made confidential or protected as attorney's work
2 product.

3 Your response to this Request for Discovery should be directed to the undersigned attorney
4 for the Complainant at the address on the first page of this Request for Discovery within 30 days
5 after service of the Accusation.

6 Failure without substantial justification to comply with this Request for Discovery may
7 subject the Respondent to sanctions pursuant to sections 11507.7 and 11455.10 to 11455.30 of the
8 Government Code.

9 Dated: May 3, 2012

KAMALA D. HARRIS
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General

DESIREE L. KELLOGG
Deputy Attorney General
Attorneys for Complainant

10
11
12
13
14
15
16
17
18
19
20 SD2012702929
70562554.doc
21
22
23
24
25
26
27
28

**BEFORE THE
DEPARTMENT OF CONSUMER AFFAIRS
FOR THE BUREAU OF SECURITY AND INVESTIGATIVE SERVICES
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. A1 2011 502

**COHEN STEPHEN M INVESTIGATIVE
AGENCY; STEPHEN MICHAEL COHEN,
BUSINESS OWNER**

NOTICE OF DEFENSE

Respondent. [Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

Dated: _____

Respondent's Name: _____

Respondent's Signature: _____

Respondent's Mailing
Address: _____

City, State and Zip Code: _____

Respondent's Telephone: _____

Check appropriate box:

- ☐ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name _____

Counsel's Mailing Address _____

City, State and Zip Code _____

Counsel's Telephone Number _____

- ☐ I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

**BEFORE THE
DEPARTMENT OF CONSUMER AFFAIRS
FOR THE BUREAU OF SECURITY AND INVESTIGATIVE SERVICES
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. A1 2011 502

**COHEN STEPHEN M INVESTIGATIVE
AGENCY; STEPHEN MICHAEL COHEN,
BUSINESS OWNER**

NOTICE OF DEFENSE

Respondent.

[Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

Dated: _____

Respondent's Name: _____

Respondent's Signature: _____

Respondent's Mailing _____

Address: _____

City, State and Zip Code: _____

Respondent's Telephone: _____

Check appropriate box:

- ☐ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name _____

Counsel's Mailing Address _____

City, State and Zip Code _____

Counsel's Telephone Number _____

- ☐ I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

COPY OF GOVERNMENT CODE SECTIONS 11507.5, 11507.6 AND 11507.7
PROVIDED PURSUANT TO GOVERNMENT CODE SECTIONS 11504 AND 11505

SECTION 11507.5: Exclusivity of discovery provisions

The provisions of Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding governed by this chapter.

SECTION 11507.6: Request for discovery

After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after the service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

(c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant and which would be admissible in evidence;

(f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

Nothing in this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

SECTION 11507.7: Petition to compel discovery; Order; Sanctions

(a) Any party claiming the party's request for discovery pursuant to Section 11507.6 has not been complied with may serve and file with the administrative law judge a motion to compel discovery, naming as respondent the party refusing or failing to comply with Section 11507.6. The motion shall state facts showing the respondent party failed or refused to comply with Section 11507.6, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under that section, that a reasonable and good faith attempt to contact the respondent for an informal resolution of the issue has been made, and the ground or grounds of respondent's refusal so far as known to the moving party.

(b) The motion shall be served upon respondent party and filed within 15 days after the respondent party first evidenced failure or refusal to comply with Section 11507.6 or within 30 days after request was made and the party has failed to reply to the request, or within another time provided by stipulation, whichever period is longer.

(c) The hearing on the motion to compel discovery shall be held within 15 days after the motion is made, or a later time that the administrative law judge may on the judge's own motion for good cause determine. The respondent party shall have the right to serve and file a written answer or other response to the motion before or at the time of the hearing.

(d) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under the provisions of Section 11507.6, or is privileged against disclosure under those provisions, the administrative law judge may order lodged with it matters provided in subdivision (b) of Section 915 of the Evidence Code and examine the matters in accordance with its provisions.

(e) The administrative law judge shall decide the case on the matters examined in camera, the papers filed by the parties, and such oral argument and additional evidence as the administrative law judge may allow.

(f) Unless otherwise stipulated by the parties, the administrative law judge shall no later than 15 days after the hearing make its order denying or granting the motion. The order shall be in writing setting forth the matters the moving party is entitled to discover under Section 11507.6. A copy of the order shall forthwith be served by mail by the administrative law judge upon the parties. Where the order grants the motion in whole or in part, the order shall not become effective until 10 days after the date the order is served. Where the order denies relief to the moving party, the order shall be effective on the date it is served.

DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL

(Separate Mailings)

Case Name: **In the Matter of the Accusation Against Stephen Michael Cohen**

Case No.: **A1 2011 502**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On May 3, 2012, I served the attached **Statement to Respondent, Accusation, Request for Discovery, Notice of Defense (2 copies) Government Code Sections 11507.6, 11507.6 and 11507.7** by placing a true copy thereof enclosed in a sealed envelope as certified mail with return receipt requested, and another true copy of the **Statement to Respondent, Accusation, Request for Discovery, Notice of Defense (2 copies) Government Code Sections 11507.6, 11507.6 and 11507.7** was enclosed in a second sealed envelope as first class mail in the internal mail collection system at the Office of the Attorney General at 110 West A Street, Suite 1100, P.O. Box 85266, San Diego, CA 92186-5266, addressed as follows:

Stephen Michael Cohen
Business Owner
Cohen Stephen M Investigative Agency
P.O. Box 531938
San Diego, CA 92153

Certified Article Number

7196 9008 9111 3006 4612

SENDERS RECORD

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on May 3, 2012, at San Diego, California.

J. Mejia
Declarant


Signature

Cc: Bureau of Security Investigative Services